

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

MARCUS R. WILLIAMS,

Plaintiff,

v.

M. YARBOROUGH, et al.,

Defendants.

CASE NO. 1:02-CV-5094-REC-SMS-P

ORDER GRANTING DEFENDANTS'
REQUEST FOR LEAVE TO FILE A MOTION
FOR SUMMARY JUDGMENT AND
VACATING SECOND SCHEDULING ORDER

(Docs. 80 and 82)

ORDER REOPENING DISCOVERY FOR
LIMITED TIME PERIOD

New Discovery Deadline: May 1, 2006

New Dispositive Motion Deadline: June 1, 2006

Plaintiff Marcus R. Williams ("Plaintiff") is a state prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. This action for damages is proceeding on Plaintiff's second amended complaint, filed August 21, 2003, against Defendants Witcher and Yarborough on Plaintiff's Eighth Amendment denial of exercise claim, and against Defendant Yarborough on Plaintiff's equal protection claim. Pursuant to the Court's order of November 4, 2005, this matter was set for trial on May 2, 2006. On November 10, 2005, Defendants filed a request for leave to file a late motion for summary judgment. Plaintiff opposed the request on December 6, 2005.

Having considered the parties' positions, the Court shall grant Defendants' request for leave to file a motion for summary judgment, and shall vacate the Second Scheduling Order, which set this matter for telephonic trial confirmation hearing and jury trial, in its entirety. In his opposition,

1 Plaintiff expresses dissatisfaction with the response he received from Defendants to his discovery
2 requests. In light of the fact that Defendants are being granted an opportunity to file a motion for
3 summary judgment despite the expiration of the motion deadline, the Court deems it in the interest
4 of justice to sua sponte extend the discovery deadline for a limited period. Plaintiff is cautioned to
5 review paragraphs 3 and 5 of the discovery and scheduling order filed on February 15, 2005. Any
6 motions to compel must be filed on or before the new discovery deadline, and must meet the
7 requirement set forth in paragraph 5.

8 Accordingly, based on the foregoing, it is HEREBY ORDERED that:

- 9 1. Defendants' request for leave to file a late motion for summary judgment, filed
10 November 10, 2005, is GRANTED;
- 11 2. The Second Scheduling Order, filed November 4, 2005, and setting this matter for
12 telephonic trial confirmation hearing on March 28, 2006, and jury trial on May 2,
13 2006, is VACATED;
- 14 3. Discovery shall be reopened for a limited period of time;
- 15 4. The new deadline for the completion of all discovery is May 1, 2006; and
- 16 5. The new deadline for filing pre-trial dispositive motions is June 1, 2006.

17
18 IT IS SO ORDERED.

19 **Dated: February 7, 2006**
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/s/ Sandra M. Snyder
UNITED STATES MAGISTRATE JUDGE